

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail Contract 85 (MC2014-34)
Negotiated Service Agreement

Docket No. CP2014-60

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF AMENDMENT TO
PRIORITY MAIL CONTRACT 85

(October 28, 2014)

I. INTRODUCTION

The Public Representative hereby provides comments pursuant to Order No. 2218.¹ In that Order, the Commission reopens the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice to amend Priority Mail Contract 85.²

II. BACKGROUND

The Commission approved the original Priority Mail Contract 85 in Order No. 2141, dated August 4, 2014.³ On October 20, 2014, the Postal Service filed notice that it has agreed to an amendment to the existing Priority Mail Contract 85 subject to the current docket (Amendment). As the Postal Service asserts, the terms of Priority Mail

¹ Notice and Order Concerning Amendment to Priority Mail Contract 85 Negotiated Service Agreement, October 21, 2014 (Order No. 2218).

² Notice of United States Postal Service of Amendment to Priority Mail Contract 85, with Portions Filed under Seal, October 20, 2014 (Notice).

³ Order Adding Priority Mail Contract 85 to the Competitive Product List, August 4, 2014 (Order No. 2141). See also Request of the United States Postal Service to Add Priority Mail Contract 85 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 23, 2014 (Request).

Contract 85 “have changed as contemplated by the contract’s terms”. Notice at 1. The Postal Service files a copy of the amendment to the existing Priority Mail Contract 85. The Postal Service also states that the supporting financial documentation and financial certification initially provided in this docket remain applicable”. *Id.*

The Amendment applies to Sections I.F. through I.H. of the initial contract. If amended, the contract would include slightly different mechanisms for setting up and adjusting prices [for Customer’s Contract Packages].⁴ The Amendment is scheduled to take effect “one business day following the day that the Commission completes its review of the filing”. *Id.*

III. COMMENTS

Requirements of 39 U.S.C. § 3633. Pursuant to section 3633(a), prices for competitive products must cover each product’s attributable costs, not result in subsidization of competitive products by market dominant products, and ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. The Postal Service has not updated the financial model stating that the initially provided financial documentation remains applicable. Notice at 1. However, the Amendment changes the customized pricing structure of the agreement.⁵ The Public Representative believes that filing of the updated financial documentation would be useful.⁶ In the absence of the updated financial model, the Public Representative has reviewed the documentation provided by the Postal Service in the original docket (filed with the Request) as well as the amended contract (filed under seal with the Amendment). Based on the review of the provided information, the Public Representative concludes that the amended contract should generate sufficient revenue

⁴ See Notice, Attachment A, Sections I.F. and I.G. and Request, Attachment A, Sections I.F. through I.H.

⁵ *Id.*

⁶ In the original comments to the Request, the Public Representative expressed the concern that “the discounted contract prices applied in financial calculations do not always reflect discounts indicated by contract terms”. See Public Representative Comments on Postal Service Request to Add Priority Mail Contract 85 to Competitive Product List. Docket Nos. MC2014-34 and CP2014-60, July 31, 2014, footnote 6 at 3. In Order No 2141, The Commission supported the above quoted concern stating that “[i]n the future, the Postal Service should take steps to ensure that the calculations submitted in the financial documentation reflect the terms of the contract.” Order No. 2141, footnote 5 at 5. However, while filing the Amendment, the Postal Service has not followed the Commission’s recommendation and has not provided any updated financial calculations, but just referred to the original ones.

to cover costs and satisfy the requirements of 39 U.S.C. § 3633(a) during its first year. The terms of the amended contract include a quarterly adjustment of prices based on Customer's volumes. It appears that the inclusion of these terms should help maintain the contract's ability to meet the requirements of 39 U.S.C. § 3633(a) over the lifetime of the contract.

Since Priority Mail Contract 85 is a relatively new product,⁷ there has been no data on cost, revenue or volume associated with the original contract and filed in the Annual Compliance Report (ACR). The Public Representative is mindful that the Postal Service will file such data (associated with the amended contract) in the future years' ACRs. This will aid the Commission in ensuring that Priority Mail Contract 85 continues to comply with the requirements of 39 U.S.C. § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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⁷ It was approved by the Commission in August 2014.